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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,527	10/06/2003	Gilles Cuerrier		3971

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EXAMINER

KLEBE, GERALD B

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 08/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/679,527

Applicant(s)

CUERRIER, GILLES

Examiner

Gerald B. Klebe

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

*G B Klebe*  
*26 August 2004*

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/06/2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Specification - Objections***

1. The specification is objected to for the following:

-The sentence calling for a claim for priority based upon the Applicant's provisional application should appear as the first sentence of the specification that appears below the title.

-page 4 makes reference to mating the receptacles of the device in "clamshell fashion" whereas page 5 refers to a "closed << clamshell >> configuration.

-A consistent terminology that is clear, concise and unambiguous should be used in the specification whenever referring to features of the invention.

-Moreover, the use of non-grammatical symbols such as << >> in sentences is improper in the specification.

The specification should be carefully reviewed and edited to ensure consistent, clear, concise, and unambiguous terminology is used throughout.

Appropriate correction is required. No new matter should be entered.

### ***Claims Rejections - 35 USC 112, Second Para.***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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a. Claim 1, in line 7 recites: "...hinges to link each wheel receptacle to the next in line...". The phrase: "to the next in line" is not clear; there is no definition in the claim nor found in the specification and drawings as filed as to what this means in the claim.

Appropriate correction is required. For the purposes of further examination on the merits the phrase will be taken by the examiner as meaning the next adjacent wheel receptacle of the anti-skid device.

b. Claim 2, in line 2 recites the limitation: "...spacing between each said receptacle being variable...". It is not clear what this means in the claim. There is no definition in the claim nor can the limitation be unambiguously understood from the disclosure, including the drawings as file. It is not clear whether what is being claimed is a device which has receptacles that can be adjusted in some way to accommodate different wheel spacings found among different skates or whether what is being claimed is that the anti-skid device is able to adjust automatically within unstated bounds to wheels that vary in their distance apart in their mountings on the skate or whether the device is claimed to accommodate to skates in which the wheel-spacing is adjustably variable or whether some other limitation is to be construed from the recitation.

Appropriate correction is required. For the purposes of further examination on the merits the limitation will be taken by the examiner as meaning that the spacing between each receptacle can be varied by some means.

c. Claim 3 recites the limitation that: "... said shell adapted to change size". There appears to be a word or phrase missing from the recitation. Moreover it is not clear from the recitation as best understood whether the recitation is claiming that the shell can be manufactured

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in different sizes to accommodate different sized wheels or whether what is being claimed is that the shell is able to change size.

Appropriate correction is required. For purposes of further examination on the merits the recitation will be taken by the examiner to mean that the shell is able to automatically change size and adapt to wheels of different diameters because of its pliable and resilient construction.

d. Claim 4 in lines 4-5 recites the terminology “clamshell configuration”. It is not clear from the language of the claim nor from the disclosure including the drawings as filed what the term “clamshell configuration” means in the context of the claim.

Appropriate correction is required. For the purposes of further examination on the merits, the recitation will be take by the examiner to mean that the anti-skid device can be folded over upon itself for compactness.

***Claim Rejections - 35 USC 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, as understood by the examiner, are rejected under 35 U.S.C. 102(b) as being anticipated by Palleschi (US 5924733), cited by Applicant.

Palleschi discloses an antiskid device for inline skates (refer Fig 12; col 6, lines 36ff) comprising: (re: claim 1)

a plurality of wheel receptacles (54); the receptacles further comprised of

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a high-friction device joined to a pliable and resilient shell (refer col 1, lines 8-12; and col 2, lines 40-45);

side panels (not separately numbered) configured and sized to frictionally engage the side of the wheels to securely engage over the wheels (col 2, lines 36-39); and hinges (48) to link each receptacle to the adjacent receptacle and allowing folding of the device (col 2, lines 54-55); and, (re: claim 2) wherein,

spacing between each receptacle is variable to accommodate skates having different spacings between wheels (refer col 2, lines 46-48); and (re: claim 3) wherein,

the pliable and resilient shell may enable wheels of different diameters to fit inside the receptacles (refer col 2, lines 54-55).

### ***Claims Rejections - 35 USC 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 4, as understood by the examiner, is rejected under 35 U.S.C. 103(a) as being unpatentable over Palleschi (US 5924733), cited by Applicant, in view of Grim (US 4355474).

As discussed above, Palleschi discloses all of the features of claim 1 from which claim 4 depends.

Palleschi's antiskid device has recesses at both ends of the device and located at opposite extremities when the device is open or being used (refer Fig 12), lacking explicit disclosure of a clip, where the clip can be inserted into the recess when the antiskid device is folded upon itself.

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However, Grim teaches a roller skate antiskid device which has a clip (23) and a recess (taken as the hole in the tab 38 as shown in Fig 2) located at opposite extremities of the device when the device is open and where the clip can be inserted into the recess when the antiskid device is folded upon itself (refer col 1, lines 52-55).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the instant invention was made to have modified the antiskid device of Palleschi to include a clip at a toe-end to fit the recess aperture shown at the heel end in accordance with the teachings of Grim in order to secure the device folded over upon itself for compact storage in a pocket or purse when not being used as suggested by the reference at column 1, lines 52-55.

#### ***Prior Art made of Record***

8. The prior art made of record and not relied upon is considered pertinent to Applicants's disclosure. The prior art of Lachapelle, of Ahlstom, of Lored, of DiMeglio et al., of Zurnamer, of Hubshman, and that of Whipp all teach antiskid devices useful with skates.

#### ***Conclusion***

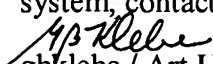
9. Any inquiry concerning this or earlier communication(s) from the examiner should be directed to Gerald B. Klebe at 703-305-0578, fax 703-872-9306; Mon.-Fri., 8:00 AM - 4:30 PM ET, or to Supervisory Patent Examiner Christopher P. Ellis, Art Unit 3618, at 703-308-2560.

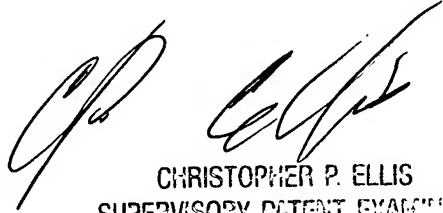
Official correspondence should be sent to the following TC 3600 Official Rightfax numbers as follows: Regular correspondence: 703-872-9326; After Finals: 703-872-9327; Customer Service: 703-872-9325.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
gbklebe / Art Unit 3618 / 26 August 2004

  
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